

# Senate Study Bill 1132 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
STATE GOVERNMENT BILL BY  
CHAIRPERSON DANIELSON)

## A BILL FOR

1 An Act concerning disclosures of information by public  
2 employees and certain employees funded by public money.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8A.417, subsection 4, Code 2015, is  
2 amended by striking the subsection and inserting in lieu  
3 thereof the following:

4 4. a. For purposes of this subsection, "*a disclosure of*  
5 *information permitted by this section*" includes any of the  
6 following:

7 (1) A disclosure of any information by the employee to a  
8 member or employee of the general assembly if the information  
9 can be used by the member or employee of the general assembly  
10 in the performance of the member's or employee's duties,  
11 regardless of whether the member or employee requested the  
12 information.

13 (2) A disclosure of information to any appropriate person  
14 if the employee reasonably believes the information evidences  
15 a violation of law or rule, mismanagement, a gross abuse of  
16 funds, an abuse of authority, or a substantial and specific  
17 danger to public health or safety.

18 b. A person shall not do any of the following as a  
19 reprisal against an employee in a position in a merit system  
20 administered by, or subject to approval of, the director, who  
21 makes a disclosure of information permitted by this section  
22 or who fails to inform the person that the employee made a  
23 disclosure of information permitted by this section:

24 (1) Discharge, suspend, or demote the employee, or take any  
25 other adverse employment action resulting in a reduction of the  
26 employee's pay.

27 (2) Fail to appoint or promote the employee to a position in  
28 the merit system or fail to take action regarding an advantage  
29 to the employee.

30 c. However, an employee may be required to inform the  
31 person that the employee made a disclosure of information  
32 permitted by this section if the employee represented that  
33 the disclosure was the official position of the employee's  
34 immediate supervisor or employer.

35 d. An employer subject to the requirements of this

1 subsection shall inform the employer's employees on a regular  
2 basis of their rights to disclose information as provided in  
3 this subsection.

4 e. This subsection does not apply if the disclosure of the  
5 information is prohibited by statute.

6 Sec. 2. Section 8F.3, subsection 1, paragraph d, Code 2015,  
7 is amended to read as follows:

8 d. Information regarding any policies adopted by the  
9 governing body of the recipient entity that ensure compliance  
10 with section 70A.29 and that prohibit taking adverse employment  
11 action against employees of the recipient entity who disclose  
12 information about a service contract to the oversight agency,  
13 the auditor of state, the office of the attorney general, or  
14 the office of ombudsman and that state whether those policies  
15 are substantially similar to the protection provided to state  
16 employees under section 70A.28. The information provided shall  
17 state whether employees of the recipient entity are informed  
18 on a regular basis of their rights pursuant to section 70A.29  
19 and of their rights to disclose information to the oversight  
20 agency, the office of ombudsman, the auditor of state, or the  
21 office of the attorney general and the telephone numbers of  
22 those organizations.

23 Sec. 3. Section 70A.28, subsection 1, Code 2015, is amended  
24 to read as follows:

25 1. A person who serves as the head of a state department or  
26 agency or otherwise serves in a supervisory capacity within the  
27 executive or legislative branch of state government shall not  
28 prohibit an employee of the state from making a disclosure of  
29 information permitted by this section or require an employee  
30 of the state to inform the person that the employee made  
31 a disclosure of information permitted by this section and  
32 shall not prohibit an employee of the state from disclosing  
33 any information to a member or employee of the general  
34 assembly or from disclosing information to any other public  
35 official or law enforcement agency if the employee reasonably

1 ~~believes the information evidences a violation of law or rule,~~  
2 ~~mismanagement, a gross abuse of funds, an abuse of authority,~~  
3 ~~or a substantial and specific danger to public health or~~  
4 ~~safety.~~ However, an employee may be required to inform the  
5 person that the employee made a disclosure of information  
6 permitted by this section if the employee represented that  
7 the disclosure was the official position of the employee's  
8 immediate supervisor or employer.

9 Sec. 4. Section 70A.28, subsection 2, Code 2015, is amended  
10 by striking the subsection and inserting in lieu thereof the  
11 following:

12 2. a. A person shall not do any of the following as  
13 a reprisal against an employee in a position in a state  
14 employment system administered by, or subject to approval of, a  
15 state agency, who makes a disclosure of information permitted  
16 by this section or who fails to inform the person that the  
17 employee made a disclosure of information permitted by this  
18 section:

19 (1) Discharge, suspend, or demote the employee, or take any  
20 other adverse employment action resulting in a reduction of the  
21 employee's pay.

22 (2) Fail to appoint or promote the employee to a position in  
23 the state employment system or fail to take action regarding  
24 an advantage to the employee.

25 b. However, an employee may be required to inform the  
26 person that the employee made a disclosure of information  
27 permitted by this section if the employee represented that  
28 the disclosure was the official position of the employee's  
29 immediate supervisor or employer.

30 Sec. 5. Section 70A.28, Code 2015, is amended by adding the  
31 following new subsection:

32 NEW SUBSECTION. 2A. For purposes of this section, "a  
33 *disclosure of information permitted by this section*" includes any  
34 of the following:

35 a. A disclosure of any information by the employee to a

1 member or employee of the general assembly if the information  
2 can be used by the member or employee of the general assembly  
3 in the performance of the member's or employee's duties,  
4 regardless of whether the member or employee requested the  
5 information.

6     **b.** A disclosure of information to any appropriate person  
7 if the employee reasonably believes the information evidences  
8 a violation of law or rule, mismanagement, a gross abuse of  
9 funds, an abuse of authority, or a substantial and specific  
10 danger to public health or safety.

11     Sec. 6. Section 70A.28, subsection 5, paragraph a, Code  
12 2015, is amended to read as follows:

13     **a.** A person who violates subsection 2 is liable to  
14 an aggrieved employee for affirmative relief including  
15 reinstatement, with or without back pay, actual damages, or any  
16 other equitable relief the court deems appropriate, including  
17 attorney fees and costs.

18     Sec. 7. Section 70A.29, Code 2015, is amended by adding the  
19 following new subsection:

20     NEW SUBSECTION. 01. For purposes of this section, unless  
21 the context otherwise requires:

22     **a.** *"Disclosure of information permitted by this section"*  
23 includes any of the following:

24         (1) A disclosure of any information by the employee to a  
25 member or employee of the general assembly if the information  
26 can be used by the member or employee of the general assembly  
27 in the performance of the member's or employee's duties,  
28 regardless of whether the member or employee requested the  
29 information.

30         (2) A disclosure of information to any appropriate person  
31 if the employee reasonably believes the information evidences  
32 a violation of law or rule, mismanagement, a gross abuse of  
33 funds, an abuse of authority, or a substantial and specific  
34 danger to public health or safety.

35     **b.** *"Eligible employer"* means any of the following:

1 (1) A political subdivision of this state.

2 (2) An entity organized under chapter 28E.

3 (3) A recipient entity as defined in section 8F.2.

4 Sec. 8. Section 70A.29, subsection 1, Code 2015, is amended  
5 by striking the subsection and inserting in lieu thereof the  
6 following:

7 1. a. A person shall not do any of the following as a  
8 reprisal against an employee in a position in employment by an  
9 eligible employer for a disclosure of information permitted by  
10 this section:

11 (1) Discharge, suspend, or demote the employee, or take any  
12 other adverse employment action resulting in a reduction of the  
13 employee's pay.

14 (2) Fail to appoint or promote the employee to a position in  
15 the employment or fail to take action regarding an advantage to  
16 the employee.

17 b. This section does not apply if the disclosure of the  
18 information is prohibited by statute.

19 Sec. 9. Section 70A.29, subsection 3, paragraph a, Code  
20 2015, is amended to read as follows:

21 a. A person who violates subsection 1 is liable to  
22 an aggrieved employee for affirmative relief including  
23 reinstatement, with or without back pay, actual damages, or any  
24 other equitable relief the court deems appropriate, including  
25 attorney fees and costs.

26 Sec. 10. Section 70A.29, Code 2015, is amended by adding the  
27 following new subsection:

28 NEW SUBSECTION. 4. An eligible employer subject to the  
29 requirements of this section shall inform the employer's  
30 employees on a regular basis of their rights to disclose  
31 information as provided in this section.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with  
34 the explanation's substance by the members of the general assembly.

35 This bill concerns whistleblower protection.

1 Code sections 8A.417 and 70A.28 are amended to allow  
2 disclosure of information by a state employee to any  
3 appropriate person, and not just to a public official or law  
4 enforcement agency, if the employee believes the information  
5 evidences a violation of law, mismanagement, a gross abuse of  
6 funds, an abuse of authority, or a substantial and specific  
7 danger to public health or safety. The Code sections are  
8 amended to also prohibit action by the employer to discharge,  
9 suspend, demote, or take any other adverse employment action  
10 resulting in a reduction of pay of an employee making a  
11 disclosure pursuant to the Code sections. Code section 8A.417  
12 is also amended to require applicable employers to inform their  
13 employees of their rights concerning disclosures. Code section  
14 70A.28 is further amended to provide that actual damages may  
15 be awarded in an action seeking relief for a violation of the  
16 disclosure provisions of that Code section.

17 Code section 70A.29, concerning disclosures of information  
18 by an employee of a political subdivision, is amended to  
19 include employees of an entity created under Code chapter 28E  
20 and an intergovernmental entity or a private agency that enters  
21 into a service contract with an oversight agency to provide  
22 services which will be paid for with local governmental,  
23 state, or federal moneys, that is a recipient entity under  
24 Code chapter 8F governing service contracts. The Code  
25 section is also amended to allow disclosure of information  
26 by an applicable employee to any appropriate person, and not  
27 just to a public official or law enforcement agency, if the  
28 employee believes the information evidences a violation of law,  
29 mismanagement, a gross abuse of funds, an abuse of authority,  
30 or a substantial and specific danger to public health or  
31 safety. The Code section is also amended to prohibit action  
32 by an eligible employer to discharge, suspend, demote, or take  
33 any other adverse employment action resulting in a reduction  
34 of pay of an employee making a disclosure pursuant to the  
35 Code section, to provide that actual damages may be awarded

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1 in an action seeking relief for a violation of the disclosure  
2 provisions of the Code section, and to require eligible  
3 employers to inform their employees of their rights concerning  
4 disclosures. Code section 8F.3 is amended to reflect that  
5 employees of a recipient entity under this Code chapter are  
6 subject to the disclosure provisions of Code section 70A.29.